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ACTION: CIRCULAR 283 OPERATIONAL IMMEDIATE

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INFO: AmEmbassies MOSCOW, PARIS, PRAGUE, WARSAW
AmLegations BUCHAREST, BUDAPEST, SOFIA, US MISSION BERLIN

REF: DEPTTEL CIRCULAR 258

Following is text portion of Secretary's statement dealing with recognition under Test Ban Treaty. Statement delivered Senate Foreign Relations Committee Monday. Text, plus pertinent passages in letters of transmittal from Acting Secretary to President and President to Senate cabled earlier, should be transmitted to government to which accredited in accordance Circular 258.

Text follows:

"Article III prescribes the procedures for ratification and accession. We hope the Treaty will have the widest possible application.

"It has been suggested that, by the act of subscribing to the Treaty, a regime might gain recognition by parties to the Treaty that do not now recognize it. No such effect can occur. In international law the governing criterion of recognition is intent. We do not recognize, and we do not intend to recognize, the Soviet occupation zone of East Germany as a state or as an entity possessing national sovereignty, or to recognize the local authorities as a government. Those authorities cannot alter these facts

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by the act of subscribing to the Test Ban Treaty. The President made this clear in his press conference of August 2. On August 3 the Department of State issued a formal statement to the same effect. Copies of both should be a part of the record of this hearing.

"All this would necessarily follow from the general rule of international law that participation in a multilateral treaty does not affect the recognition status of any authority or regime. But this treaty contains additional safeguards.

Treaties typically provide for a single depositary. Article III, however, provides that each of the three original parties will be a depositary of the Treaty. No depositary need accept a signature or an instrument of accession from authorities in a territory it does not recognize as a state.

"The East German authorities will subscribe to the Treaty in Moscow. The Soviet Union may notify us of that act. We are under no obligation to accept that notification, and we have no intention of doing so, but the East German regime would have committed itself to abide by the provisions of the Treaty.

"By this arrangement, we not only assure that no implication of recognition may arise, but we reserve our right to object if later the East German regime should seek to assert privileges under the Treaty such as voting or participating in a conference called under Article II.

END

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